



(“Rule 55(b)”) provides two means by which a plaintiff may obtain an entry of default judgment. The plaintiff may apply to the clerk of the court for the entry of default judgment when the defendant is neither a minor nor an incompetent person, and the plaintiff’s claim is for a sum certain or for a sum which can be made certain by computation.<sup>4</sup> In all other cases, the party entitled to a judgment by default must apply to the court.<sup>5</sup>

Here, Plaintiffs have not moved for entry of default by the clerk’s office under Rule 55(a). This is a mandatory first step to obtaining default judgment under Rule 55(b). As Plaintiffs have not complied with the Federal Rules of Civil Procedure, the court cannot consider the substance of the Motion.

Accordingly, it is **HEREBY ORDERED** that “Plaintiffs’ Motion for Default Judgment” [ECF No. 16] is **DENIED** without prejudice to refiling.

**SIGNED AND ENTERED** this 25th day of **June 2021**.

  
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**FRANK MONTALVO**  
**UNITED STATES DISTRICT JUDGE**

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<sup>4</sup> FED. R. CIV. P. 55(b)(1).

<sup>5</sup> FED. R. CIV. P. 55(b)(2).